

EXHIBIT 12

*Excerpts of January 17, 2023 Deposition
of County Judge Mark Henry*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

HONORABLE TERRY)
PETTEWAY, et al.)
) Case No. 3:22-cv-00057
VS.)
)
GALVESTON COUNTY, et)
al.)

ORAL AND VIDEOTAPED DEPOSITION OF MARK A. HENRY
JANUARY 17, 2023

ORAL AND VIDEOTAPED DEPOSITION OF MARK A. HENRY,
produced as a witness at the instance of the Plaintiff and
duly sworn, was taken in the above styled and numbered
cause on Tuesday, January 17, 2023, from 9:08 a.m. to
6:07 p.m., before Janalyn Elkins, CSR, in and for the
State of Texas, reported by computerized stenotype
machine, via Zoom, pursuant to the Federal Rules of Civil
Procedure and any provisions stated on the record herein.

A P P E A R A N C E S

FOR THE PLAINTIFFS:

HILARY HARRIS KLEIN

ADRIENNE SPOTO

TALIA RAY

SOUTHERN COALITION FOR SOCIAL JUSTICE

1415 West NC Highway 54, Suite 101

Durham, North Carolina 27707

hilaryhklein@scsj.org

SARAH CHEN

BERNADETTE REYES

JOAQUIN GONZALEZ

TEXAS CIVIL RIGHTS PROJECT

1405 Montopolis Drive

Austin, Texas 78741

Schen@texascivilrightsproject.org

THARUNI JAYARAMAN

CATHERINE MEZA

BRUCE GEAR

K'SHAANI SMITH

DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION

Voting Rights Section 150 M Street, N.E.

Washington, DC 20530

Tharuni.Jayaraman@usdoj.gov

VALENCIA RICHARDSON

MARK GABER

ALEXANDRA COPPER

DaWUAN NORWOOD

SIMONE LEEPER

CAMPAIGN LEGAL CENTER

1101 14th Street NW, Suite 400

Washington, DC 20005

Vrichardson@campaignlegalcenter.org

KATHRYN GARRET

ANDREW SILBERSTEIN

DIANA C. VALL-LLOBERA

WILLKIE FARR & GALLAGHER, LLP

787 Seventh Avenue

New York, New York 10019

Kgarrett@willkie.com

1 FOR THE DEFENDANTS:

2 JOSEPH R. RUSSO
3 GREER HERZ & ADAMS
4 One Moody Plaza, 18th Floor
5 Galveston, Texas 77550
6 jrusso@greerherz.com

7
8 MATEO FORERO
9 HOLTZMAN VOGEL JOSEFIAK TORCHINSKY, PLLC
10 2300 N. Street NW, Suite 643A
11 Washington, DC 20037
12 mforero@holtzmanvogel.com

13 Also Present:

14 DANIEL ALPIZAR (Videographer)
15 ALEXA PASTOR (Concierge)
16
17
18
19
20
21
22
23
24
25

1 think your answer here was wrong other than the fact
2 that right now you can't recall it?

3 A. No, I can't recall it. And this would have
4 been probably input from Commissioner Clark.

5 Q. Okay.

6 MS. KLEIN: You can take it down.

7 Q. (BY MS. KLEIN) So you won again in 2014, 2018,
8 and then, congratulations, this past 2022, right?

9 A. Correct.

10 Q. And it's correct, then, in all of these
11 campaigns you identified as a Republican when you ran?

12 A. Right.

13 Q. So fair to say that you have identified as a
14 Republican your entire political career?

15 A. Entire life, yes.

16 Q. Entire life. Okay.

17 Turning to your 2018 campaign, was
18 Commissioner's Court redistricting part of your 2018
19 campaign platform?

20 A. No.

21 Q. Do you recall if you mentioned it in any of
22 your campaign events?

23 A. No.

24 Q. What about one-on-one conversations with
25 constituents?

1 A. Not that I recall.

2 Q. Any -- in any campaign material sent to voters?

3 A. No.

4 Q. So by my count, you've run in four Galveston
5 county-wide elections, right?

6 A. Yes, correct.

7 Q. Do you remember your margins of victory in
8 these elections?

9 A. 2010 was 60/40. Now, these are numbers that
10 may have been adjusted slightly after some mail-in
11 ballots, but for the most part 60/40 in 2010, 66/34 in
12 2022.

13 Q. 66, probably since COVID that kind of margin,
14 right?

15 A. I agree.

16 Q. Okay. Do you think that 66 percent from the
17 2022 election aligns with the partisan makeup of the
18 county?

19 A. Probably.

20 Q. Why do you think probably?

21 A. People had a choice. So I mean, I had an
22 opponent that ran as a Democrat so they had a choice and
23 they selected me.

24 Q. Who do you consider to be your core supporters
25 in the county when you run in county elections?

1 MR. RUSSO: Objection, vague and ambiguous.

2 THE WITNESS: People who don't want to pay
3 city taxes but want city services.

4 Q. (BY MS. KLEIN) Okay. What about income levels
5 on Bolivar Peninsula?

6 A. I would think they're -- I don't know. I would
7 think they're pretty respectable based on what it
8 probably costs to live there.

9 Q. So respectable you would mean on the high end?

10 A. On middle to upper, yes.

11 Q. What about Freddiesville?

12 MR. RUSSO: I'm sorry. What did you say?

13 THE WITNESS: Freddiesville, it's an
14 unincorporated part of Santa Fe.

15 I do not know much about the income level
16 of Freddiesville.

17 Q. What about Santa Fe?

18 A. Yes, very familiar with Santa Fe.

19 Q. What's the income level of that area?

20 MR. RUSSO: Objection, calls for
21 speculation.

22 THE WITNESS: I have no way of knowing.
23 But, I mean, based on the size of the lots there, again,
24 I'm going to assume that it's middle to upper.

25 Q. (BY MS. KLEIN) La Marque?

1 A. Yes.

2 Q. What's the income level of folks, to your
3 knowledge?

4 A. No idea.

5 Q. Texas City?

6 A. Same as somewhere else -- same as Galveston.
7 Parts of Texas City are probably economically depressed.
8 Parts of Texas City are very affluent.

9 Q. League City?

10 A. League City is a bedroom community, it's going
11 to generally be on the middle to upper end.

12 Q. And what about Dickinson?

13 A. Dickinson, same as Texas City, parts are going
14 to be somewhat more modest and somewhat -- some other
15 parts are going to be better off.

16 Q. What about the democratic -- demographic,
17 excuse me, makeup of these neighborhoods? Are you
18 familiar with the race or ethnicity that's predominant
19 in these different neighborhoods?

20 A. I mean, not specifically, no.

21 Q. What about generally?

22 A. Generally speaking, Santa Fe is probably going
23 to be mostly Caucasian, similar in League City. There's
24 going to be a higher African American population in
25 Hitchcock, La Marque, parts of Galveston, parts of Texas

1 City. Is that all you asked about? Does that cover
2 every place you asked about?

3 Q. Bolivar Peninsula?

4 A. Bolivar is going to be mostly White.

5 Q. Freddiesville?

6 A. Freddiesville -- Freddiesville is a place I
7 don't get too very often, so I don't know much about
8 Freddiesville.

9 Q. La Marque?

10 A. La Marque is probably more African American.

11 Q. And Dickinson?

12 A. Dickinson -- Dickinson is probably somewhat
13 half and a half. It's probably one of the more diverse
14 cities.

15 Q. I mean, you see demographic data as part of
16 your role as county judge, the presiding officer of the
17 county, right?

18 A. Honestly, I see it when we're doing
19 redistricting as it's presented to me and that's about
20 it.

21 Q. Okay. I would like to just pull up a document.
22 This is Tab 108. We're going to mark this as Exhibit 2,
23 I guess? 3. 2 was the deposition transcript.

24 (Exhibit No. 3 was marked.)

25 Q. (BY MS. KLEIN) So Judge, do you recognize this

1 that 1.8 million allocation?

2 A. I don't remember.

3 Q. Turning to another decision, in 2020 you
4 opposed the removal of a Confederate statue called the
5 Dignified Resignation that is in front of the Galveston
6 County Courthouse, correct?

7 A. The removal of the statue, probably, yes.

8 Q. Okay. You actually had previously voted to
9 renovate and rededicate that statue, correct?

10 A. Was that from 2011 or 2012?

11 Q. It was before 2020.

12 A. Okay. Then that would -- most likely, yes.

13 Q. And in 2020 Stephen Holmes, Commissioner
14 Holmes, proposed a vote to remove that Dignified
15 Resignation statue, correct?

16 A. I believe that's correct.

17 Q. Are you aware of whether any Galveston
18 residents were calling for its removal?

19 A. I do not remember.

20 Q. And do you remember whether that came up -- his
21 proposal for a vote was ever seconded?

22 A. I don't -- I don't think it was, but I don't
23 remember for sure.

24 Q. But there was never a vote on that issue,
25 right?

1 A. I don't remember. If it didn't get seconded,
2 there was no vote.

3 Q. Okay. Did anyone from the African American
4 community come before you to oppose or to advocate for
5 its removal, to your knowledge?

6 A. I don't remember.

7 Q. Do you think it should be removed?

8 A. The statute itself, no.

9 Q. Why not?

10 A. It's part of history. I mean, the plaque was
11 removed and placed in a museum, as I recall. But let me
12 go back to Commissioner Holmes for a minute.

13 Very unusual for this guy who's very smart
14 to not have a plan on what to do with the statue. He
15 just wanted it removed. No idea how to pay for it. No
16 idea where it is going. So that was kind of unusual for
17 Commissioner Holmes.

18 Q. Do you know why he wanted it removed?

19 A. No. I mean, you have to ask him.

20 Q. All right. Turning to language access, fair to
21 say there are folks that speak Spanish as a primary
22 language in Galveston?

23 A. Probably.

24 Q. Have you made any efforts to expand Spanish
25 language access to county information?

1 Calls for speculation.

2 THE WITNESS: I don't think there was a
3 vote on the map. Not that I remember.

4 Q. (BY MS. KLEIN) Would it surprise you if there
5 was a vote, you voted against it?

6 A. I'd need more details as to -- was it run
7 through the demographer? Do we know it was legally
8 compliant? Did it meet all the criteria we had set
9 forth? So I would want to know the answers to that
10 first.

11 Q. I'm hoping you can provide some of that
12 information.

13 A. Cannot.

14 Q. But you don't remember?

15 A. I do not.

16 Q. Okay. Let's talk a little bit about the
17 process. You just mentioned criteria. Did the
18 Commissioner's Court vote on criteria in the 2011 cycle?

19 A. I can't -- I think we did. I don't remember.

20 Q. The Commissioner's Court had voted on criteria
21 in previous cycles, to your knowledge?

22 A. I believe that to be correct, yes.

23 Q. And -- but you don't remember whether you voted
24 for criteria in a public meeting in the 2011 process?

25 A. I did everything that our legal counsel told us

1 them to her because then she's the voter registrar, she
2 has to implement those addresses into the -- I can't
3 remember the name of the system that then creates the
4 voter card that tells you where -- what precincts you're
5 in.

6 Q. Do you remember her asking -- all right. We
7 can take this one down.

8 Do you remember her following up in January
9 of the new year of 2021 about the same issue?

10 A. I don't remember that, but she may well have.

11 Q. Okay. We'll pull that up.

12 MS. KLEIN: This is Tab 26, Alexa, and it
13 will be Exhibit 15.

14 (Exhibit No. 15 was marked.)

15 Q. (BY MS. KLEIN) So this is an email dated
16 January 14, 2021 from Cheryl Johnson to you, correct?

17 A. Correct.

18 Q. And it also copies the other commissioners,
19 correct?

20 A. Yes, it does.

21 Q. Do you remember receiving this email?

22 A. I don't remember it, but I don't doubt that I
23 got it.

24 Q. And she says, (Reading:) With redistricting
25 around the corner, I thought it may be helpful for each

1 of you to have the list of registered voters across the
2 county (by precinct) which automatically provides county
3 commissioner lists and the JP/Constable listings.

4 Do you know why she would have sent that to
5 you?

6 A. Not really.

7 Q. Did you take any steps after receiving this
8 email from her?

9 A. There's nothing -- again, there's nothing at
10 this point that can be done. We don't have census data.
11 We don't have anything.

12 Q. Could you have started making a timeline for
13 how the redistricting process should go?

14 MR. RUSSO: Objection, calls for
15 speculation.

16 THE WITNESS: It would strictly be an
17 exercise because we don't have census data. So there's
18 nothing you can do until you get census data.

19 Q. (BY MS. KLEIN) Can you -- well, what about the
20 criteria that we just looked at a few exhibits ago? Do
21 you need census data to pass a resolution of criteria?

22 A. We didn't pass a resolution of criteria.

23 Q. But hypothetically, would you need census data
24 to pass a resolution of criteria?

25 MR. RUSSO: Objection, calls for

1 speculation and it's an incomplete hypothetical.

2 THE WITNESS: If our lawyers told us to
3 pass a resolution for criteria, we would have done that.

4 Q. (BY MS. KLEIN) Apart from what your lawyers
5 were telling you to do or not, your understanding, did
6 criteria require knowing anything about census data at
7 all?

8 MR. RUSSO: Calls for speculation and a
9 legal conclusion.

10 THE WITNESS: You lost me. The -- the
11 census data -- if we are going to adopt criteria, I
12 don't guess we'd have to wait for census data.

13 Q. (BY MS. KLEIN) You don't guess. You don't
14 think you would have had to wait?

15 MR. RUSSO: Objection, calls for
16 speculation.

17 THE WITNESS: I don't know that it would
18 have been passed by Commissioner's Court. So I can only
19 speak for myself as one of five members.

20 Q. (BY MS. KLEIN) What I'm asking is did -- if
21 you were to pass redistricting criteria as they had in
22 the past, would you need to know census numbers in order
23 to draft those criteria, those standards for
24 redistricting and pass them?

25 A. Probably not.

1 MR. RUSSO: Objection, calls for
2 speculation.

3 MS. KLEIN: If you could just let him --
4 not speak over each other somehow.

5 MR. RUSSO: She's telling you to wait for
6 me.

7 THE WITNESS: Okay.

8 Q. (BY MS. KLEIN) So you say you sought out Dale.
9 Do you remember receiving -- Dale Oldham, rather, do you
10 remember receiving communications from other perspective
11 counsel for redistricting?

12 A. I do not remember getting anything else.

13 Q. Okay. Let's pull one of those documents up.
14 This is Doc 15 and it will be Exhibit 16.

15 (Exhibit No. 16 was marked.)

16 MS. KLEIN: So Alexa, that's Tab 15.

17 Q. (BY MS. KLEIN) Just one more question on the
18 criteria issue. I'm sorry to go back and poke around.

19 A. That's okay.

20 Q. You said, "probably." I heard you say,
21 "probably." Is there any reason you can think of that
22 you would need census numbers first before drafting up a
23 set of criteria to guide the redistricting process?

24 MR. RUSSO: Object. Calls for speculation.
25 Misstates the record. It's vague and ambiguous.

1 THE WITNESS: No. I think -- you're saying
2 do I need census data if we are going to adopt criteria,
3 do we need to wait for census data, the answer to that,
4 I guess, would be no.

5 Q. (BY MS. KLEIN) All right. So we have this
6 document, Exhibit 16, pulled up. And this is an email
7 from Dianna Martinez to you dated February 18, 2020,
8 correct?

9 A. Correct.

10 Q. And Dianna Garza-Martinez is your office
11 coordinator, correct?

12 A. That is correct.

13 Q. Let's scroll to the second page. And this is a
14 letter attached, it says -- stamped with received
15 February 14, 2020. The heading is Allison, Bass &
16 Magee, LLP. The letter itself is dated February 6, 2020
17 and it is addressed to you, correct?

18 A. It is.

19 Q. Did I get any of that wrong?

20 A. You got it correct.

21 Q. And the subject line is, Commissioner's Court
22 Precinct Redistricting, right?

23 A. Correct.

24 Q. Do you remember getting this letter?

25 A. I specifically don't remember, but I'm sure I

1 saying who the attorneys that were proposed counsel
2 would be?

3 A. No, I don't remember.

4 Q. So let's scroll to -- again, back to Agenda
5 Item 11. Does it say anywhere on this?

6 A. No.

7 Q. So would a member of the public from these
8 public materials know who the proposed redistricting
9 counsel would be?

10 A. I wouldn't think so.

11 Q. Is there any other way they might know who
12 redistricting counsel would be?

13 MR. RUSSO: Objection, calls for
14 speculation.

15 THE WITNESS: I don't know.

16 Q. (BY MS. KLEIN) I mean, you know what
17 information is posted about the commissioner court
18 meeting you preside over before?

19 A. Right. And we're required to publish the item
20 to be considered, not the details of every transaction.

21 Q. But didn't you just say that you try to include
22 things whenever you can for the backup?

23 A. Yes.

24 Q. So do you know why you chose not to include the
25 draft?

1 of the regular meetings. Do you remember that?

2 A. Not really, but, okay, I'm sure it happened.

3 Q. You know, did you plan on having a similar
4 presentation about the census data, you know, maybe the
5 next September meeting, for example? At this time did
6 you make any plans like that saying, okay, the data is
7 going to be released in August so the first regular
8 meeting in September we'll have our presentation like we
9 did last cycle of census demographics for the county?

10 A. No, because we wouldn't have -- we wouldn't
11 have known for sure when to plan that. And we don't --
12 we don't put things on the agenda six months for now.
13 We put things on the agenda for next Monday.

14 Q. Okay. Well, let me ask you this. When the
15 data did come out in August, did you put that on the
16 agenda?

17 A. For what purpose? No. But I don't know what
18 purpose we would put it on the agenda for.

19 Q. To have a meeting to describe the census data
20 as you had, you know, last cycle in 2011, did you put
21 that on the agenda ever?

22 A. No.

23 Q. Do you remember why not?

24 A. No one asked me -- no attorney told me we
25 should do this.

1 Q. Did you make any announcement publicly -- not
2 in just a meeting, but did you make any public
3 announcement to Galveston residents about what the
4 census data had to say about Galveston?

5 A. I don't think so.

6 Q. Did you see any analysis of that census data
7 yourself?

8 A. When it first came out? No.

9 Q. What about later?

10 A. I suspect I would only have seen any
11 information relating to a proposed map is my guess.

12 Q. So other than counsel, did you see any summary
13 of the census data for Galveston?

14 A. No. Other than I did see the general
15 population, the total population.

16 Q. When did you see that?

17 A. Whenever that came out I saw it. I'm assuming
18 August or September.

19 Q. So turning back to Ms. Johnson, do you remember
20 her following up again with your office after the census
21 data was released?

22 A. I remember that she was asking for at least a
23 part-time personnel for input data. Other than that, I
24 don't recall anything else.

25 Q. All right. Let's pull up that document. It's

1 A. I'm sorry. Did I have any -- what was the
2 question?

3 Q. Concerns about how -- informing the public
4 about how redistricting would proceed?

5 A. We -- we informed the public. I mean, that's
6 all we can do.

7 Q. Well, did you inform them about what the census
8 had said about Galveston?

9 A. I don't think so.

10 Q. Did you inform them that maps were being
11 drafted by counsel?

12 A. Sure, they would have known that. I mean, you
13 have to understand that very few people show up to
14 Commissioner's Court. So when you say the constituents,
15 I'm not really sure who you're talking about. The
16 people who live here or the people who show up or all of
17 them?

18 Q. I'm talking about the people in -- who live in
19 Galveston County when I say constituents.

20 A. Okay.

21 Q. So the people you represent in government.

22 A. Right.

23 Q. Did you -- how would they have known that maps
24 were being drafted?

25 MR. RUSSO: Object. Calls for speculation.

1 THE WITNESS: Other than to access our
2 agendas and they can also get put on a list to always
3 get our agendas, that would have been it.

4 Q. (BY MS. KLEIN) Which agenda would that have
5 been on?

6 A. Engagement letter back in whenever that was.

7 Q. The engagement letter -- I mean, as we talked
8 about before, the engagement letter wasn't included in
9 the backup, right?

10 A. It did not say who the firm was. I did say
11 that we engaged -- that we engaged a firm, through, for
12 redistricting.

13 Q. But did it have any information about when
14 draft maps would start being drafted?

15 A. No.

16 Q. Did it have any information about how many maps
17 would be drafted for proposal?

18 A. I don't think so.

19 Q. What about any information about a timeline for
20 drafting?

21 A. We wouldn't have been able to provide a
22 timeline at that time.

23 Q. Did it disclose to them that it would have to
24 be done by mid November?

25 A. I don't think so.

1 you didn't?

2 A. After -- as long as -- to me, as long as we
3 joined Bolivar, Galveston, and that's really it, then
4 the rest of the lines are not that important.

5 Q. And we'll get into this more later. But that
6 concept of having a coastal precinct, did you share any
7 other -- strike that.

8 Did you have at the beginning of this
9 redistricting process in August any other conceptual
10 preferences other than this coastal precinct?

11 A. Not really.

12 MS. KLEIN: Okay. This is a good time for
13 us to stop if folks want to get lunch.

14 MR. RUSSO: No worries.

15 VIDEOGRAPHER: The time is 12:35. Off the
16 record.

17 (Brief recess.)

18 VIDEOGRAPHER: The time is 1:36. Back on
19 the record.

20 Q. (BY MS. KLEIN) Judge Henry, other than the
21 issue of the privilege with your -- with your counsel,
22 did you discuss your testimony here today with anybody
23 else?

24 A. No.

25 Q. Did you talk about issues unrelated to

1 Q. (Reading:) Please submit your support for
2 proposed map 2. This map creates a much needed coastal
3 precinct. Having a coastal precinct will ensure that
4 those residents directly along the coast have a
5 dedicated advocate on Commissioners Court.

6 So is it fair to say that by October 29th
7 you had decided you're going to vote for Map 2?

8 A. Having had -- having no reason not to,
9 probably.

10 Q. What do you mean, "no reason not to"?

11 A. In short of someone coming in and saying, hey,
12 it turns out that Map 2 is out of population deviation,
13 it's got a problem with something, some other problem,
14 then, yes.

15 Q. Sorry. I'm just trying to eliminate questions
16 we might have already covered. If you'll give me a
17 moment.

18 A. Okay. That's fine.

19 Q. So is it true that the first time a quorum of
20 commissioners met in the same room to discuss the draft
21 maps was the November 12, 2021 hearing?

22 A. I believe that would be correct, yes.

23 Q. Is there any other possibility you can think of
24 other than that hearing beforehand?

25 A. No, I don't think so.

1 Q. And you had taken great care to make sure that
2 that was the first time everybody met to discuss the
3 maps together, right?

4 A. Correct. We would not have been able to meet
5 short of a posted meeting.

6 Q. Are you aware of whether any other commissioner
7 prepared a proposed map that was not posted on this
8 website?

9 A. At the November 12th meeting Commissioner
10 Holmes introduced two maps that we saw -- all saw for
11 the first time there.

12 Q. And when did you learn that Commissioner Holmes
13 would have his own proposal?

14 A. When he stood up and introduced it.

15 Q. Are you -- do you know why that wasn't one of
16 the drafts that Dale had put together in the beginning?

17 A. I do not know.

18 Q. Do you remember that Commissioner Holmes also
19 passed out an RPV study at that November 12th hearing?

20 MR. RUSSO: Objection, calls for
21 speculation. Vague and ambiguous.

22 MS. KLEIN: I will --

23 MR. RUSSO: At least ask him what that is.

24 Q. (BY MS. KLEIN) I'll clarify. Are you aware of
25 what racially polaris voting study is?

1 A. I don't remember that. He may have, but I
2 don't remember that.

3 Q. Scroll to the next page. This is a document
4 titled November 8, 2021. And the third paragraph says,
5 (Reading:) Voting patterns in Galveston County are
6 definitely characterized by racially polarized voting.

7 So you don't -- your testimony is that you
8 don't know what that means?

9 A. I do not recall having heard RVP -- or RPV
10 before today.

11 Q. What about racially polarized voting?

12 A. No, I don't think so.

13 Q. And did you ever view a racially polarized
14 voting study? Do you ever recall reviewing a study at
15 any point in the 2021 process?

16 A. No.

17 Q. Okay. Let's go to the conclusions. The third
18 sentence starts, (Reading:) In recent elections which I
19 analyzed -- sorry, back up. Do you know what, strike
20 that.

21 I'd like to talk a little bit more about
22 your decision to choose Map 2. You were aware -- is it
23 fair to say you were aware when you decided on Map 2
24 that it would create a dramatic shift in the
25 commissioner precinct boundary that existed at the time?

1 A. Yes. But that would be the nature of making
2 one precinct cover the coast.

3 Q. And you were aware, right, when you chose Map 2
4 that it would take that then existing Precinct 3 and it
5 would split it into all of the four new precincts,
6 correct?

7 A. I may have known that at the time. I don't
8 know.

9 Q. Didn't you -- wouldn't you have looked -- let
10 me ask you this. Didn't you look at the existing
11 precinct lines during the process to see where -- where
12 you were starting from?

13 A. Well, I would have known what the existing
14 precinct lines were. I mean, I know that Dale ensured
15 that everybody lived in the new precincts regardless of
16 which map it was. I think they all lived in the
17 precincts of either map.

18 Q. So you can see that the existing Precinct 3 it
19 was in the middle of the county, right?

20 A. Yes.

21 Q. And then in the new Map 2 it got moved to the
22 north part of the county, right?

23 A. Yes.

24 Q. And all of the other precincts m1, 2, and 4 had
25 a chunk of that middle part of the county, right?

1 these were shown to me.

2 Q. What about a new -- did you ever ask -- so you
3 never asked for a map other than this one?

4 A. The 2.

5 Q. For Map Proposal 2, you liked this when you saw
6 it, right?

7 A. I liked the fact that it got us one coastal
8 precinct.

9 Q. But you liked -- you didn't -- you didn't ask
10 for the other lines to change. You must have been --
11 you must have liked the other maps, right? Sorry. You
12 didn't ask for the other precinct lines to change. You
13 must have liked -- been satisfied at least with where
14 the other precinct lines were, right?

15 A. Again, the precinct lines are far more
16 important to the precinct commissioners than they are to
17 me.

18 Q. But to answer my question, you must have at
19 least been satisfied with them if you --

20 A. As long as they said that they complied with
21 the population -- population adjustment and all the
22 state and federal laws, that was fine.

23 Q. You were aware from the 2011 litigation,
24 weren't you, that Precinct 3 was the only
25 majority/minority district in the whole county, right?

1 A. Yes.

2 MR. RUSSO: Objection, speculation and
3 calls for a legal conclusion.

4 Go ahead.

5 Q. (BY MS. KLEIN) And your answer is yes?

6 A. My answer is I was probably told that, yes.

7 Q. And you had even seen -- we talked about that
8 preclearance letter, you know, with the preclearance
9 letter had those tables. You had seen those, right?

10 A. Back in 2011?

11 Q. At some time before the 2021 process you had
12 seen that preclearance letter with those --

13 A. Back in 2011, yeah.

14 Q. Okay. All right. Did you ever use an
15 interactive version of this map?

16 A. No.

17 Q. Going onto this website, scroll again, I want
18 you to tell me if you see any kind of data about the
19 maps posted.

20 A. The boundaries and the precinct number.

21 Q. So the benchmark map, the preexisting map, that
22 wasn't on here, right?

23 A. I don't know what a benchmark map is.

24 Q. When I say benchmark I mean the map that was in
25 place in 2012 to 2021 until this map, the new one was

1 passed.

2 A. Oh, okay.

3 Q. So that old map from 2012 to 2021, that's not
4 on this website, right?

5 A. It appears so.

6 Q. What would be somebody have to do if they
7 wanted to see that during the redistricting process?

8 MR. RUSSO: Objection, calls for
9 speculation.

10 THE WITNESS: The engineering website.

11 Q. (BY MS. KLEIN) What is the engineering
12 website?

13 A. The county's main website. They have all the
14 maps there. They have everything.

15 Q. Is there a link to that on this website?

16 A. Can you show me the URL?

17 Q. Then keep scrolling down maybe.

18 A. Yeah. You just remove the -- from the slash
19 County judge redistricting on, that will get you to -- I
20 think that gets you to the map section of engineering.

21 Q. Were there any instructions on this website
22 about how to do that?

23 A. I don't see any.

24 Q. Okay. So what about an explanation of US
25 Census data results for Galveston? Is there any

1 explanation of census data results on this web page?

2 A. I don't see any.

3 Q. So if somebody wanted to see, you know, what
4 had changed since the 2010 census or even just what the
5 numbers were, what would they have to do?

6 MR. RUSSO: Objection, calls for
7 speculation.

8 THE WITNESS: I assume go to the Census
9 Bureau's website.

10 Q. (BY MS. KLEIN) They couldn't get that from the
11 county, right?

12 A. I do not know if ever we put that on our
13 website, but it was on the Census Bureau's website.

14 Q. And there's no breakdown for each of these
15 maps of -- can you scroll back up. There's no breakdown
16 of the deviations or, you know, how many people are in
17 each of these precincts on these maps, right?

18 A. I don't see that.

19 Q. There's no racial demographic breakdown of
20 these maps?

21 A. I don't see it.

22 Q. And there's no partisan information?

23 A. I think there's some.

24 Q. Okay. Any other analytics on this website
25 about these maps other than the pictures?

1 A. Doesn't look like it.

2 Q. So let's go back to the specific criteria that
3 you were actually -- if any that you were using when you
4 were deciding which map to -- which maps should be
5 drawn.

6 So you mentioned this coastal precinct
7 equalizing populations, I've understood, and then a
8 general, like, legally compliant, right? Were there any
9 other specific criteria that you were thinking about
10 when you were giving input on what the proposed map
11 should look like?

12 A. No.

13 Q. What about the other commissioners, do you know
14 what criteria they might have had in mind when they were
15 providing feedback about what the proposed map should
16 look like?

17 A. No. Other than like I said, Commissioner Apfel
18 had asked that a street he moved over for a house that
19 either he owned or was buying or something like that.
20 Other than that, I would not have known any other
21 commissioners' requests, if they even had any.

22 Q. All right. I would like to go to another
23 exhibit. But actually, if you would like to take a
24 break, this is an okay time to stop.

25 A. I'm fine.

1 to have been true for the other commissioners?

2 A. Do not know.

3 Q. And then the goal was to have -- the last
4 sentence says, (Reading:) There was a sense that the
5 prior map looked gerrymandered.

6 Do you agree with that statement?

7 A. I do.

8 Q. What does "gerrymandered" mean to you?

9 A. Moving lines in a -- in not necessarily in a
10 sensible manner in order to achieve a specific goal.

11 Q. And which part of the prior map looked
12 gerrymandered?

13 A. Precinct 3. And I understand it had to be
14 so...

15 Q. What do you mean it had to be?

16 A. My understanding from the 2011 redistricting is
17 we had to make every effort to keep a majority/minority
18 precinct. And the only way we could achieve that was to
19 have the precinct look like it did.

20 Q. So you knew that by changing things the way you
21 did in Map Proposal 2 you were getting rid of that
22 majority/minority precinct, right?

23 MR. RUSSO: Objection, calls for
24 speculation.

25 THE WITNESS: And what I know would have

1 really affect me.

2 Q. Was preserving the prior district lines
3 considered among potential criteria among this list at
4 any point?

5 A. I didn't see it in there.

6 Q. Do you know if it was ever considered?

7 A. No, I do not.

8 Q. Okay. So we see your signature at the end of
9 this. Do you know if the other commissioners reviewed
10 this before it was submitted?

11 A. I do not know.

12 Q. Did you talk to them about it to make sure this
13 was accurate to them before you signed it?

14 A. Can't do that.

15 Q. Even one on one?

16 A. One on one but only one commissioner. The next
17 time I talk to another commissioner, I'm in violation of
18 the state law.

19 Q. Did you have your staff confirm with them?

20 A. No.

21 Q. Okay. So just you signed this and you didn't
22 ever talk about it with another commissioner in any way?

23 A. I did not.

24 Q. So how do you know -- so going back up to the
25 top, the way -- if we could go back up to the top of

1 Interrogatory 1. It says -- sorry, the Interrogatory
2 No. -- the Supplemental Response.

3 MS. KLEIN: Sorry, Alexa, just a little bit
4 further down. Thank you.

5 Q. (BY MS. KLEIN) (Reading:) Defendants state
6 that the Galveston County Commissioners Court considered
7 the following factors in adopting the 2021 redistricting
8 plan.

9 If you never talked about this with the
10 other commissioners, how do you know that that statement
11 is true and accurate?

12 A. That would be a question that I think that the
13 lawyers would have posed to other commissioners.

14 Q. But you -- when you signed this document, you
15 didn't know whether that was true, right?

16 A. Whether what is true, that if the lawyers
17 talked to them?

18 Q. No. That the Galveston County Commissioner's
19 Court considered these factors.

20 MR. RUSSO: Counsel, are you taking issue
21 with the lawyers preparing the response on behalf of the
22 County?

23 MS. KLEIN: No. I'm --

24 MR. RUSSO: -- because that's what
25 happened.

1 MS. KLEIN: I'm asking how he knew it was
2 true that the Commissioner's Court considered these
3 criteria if he never was able to confirm that.

4 MR. RUSSO: You know that he's got to rely
5 on counsel's discussions with other folks. There's
6 one -- he's one person that's verifying the responses.
7 This is a ridiculous line of questioning.

8 Q. (BY MS. KLEIN) I'm just -- I'm going to go
9 through and X out things that we've already covered if
10 you'll give me a little bit -- a moment.

11 A. Yeah, sure.

12 Q. So fair to say you never discussed these six
13 listed criteria with the other commissioners directly?

14 A. I may have discussed them with one. But
15 certainly not more than one.

16 Q. Did you apply these criteria when you were
17 providing input on draft maps as they're stated here?

18 A. The first one, absolutely, and then after that
19 the coastal precinct was the only other factor that I
20 would have said.

21 Q. Let's -- I'm going to follow up on that voting
22 precinct issue and then we'll move on.

23 MS. KLEIN: Alexa, could you -- can you
24 scroll down to Interrogatory No. 2, please? Try to be
25 quick about this.

1 A. Based on only the 2022 general election
2 results, 34 percent.

3 Q. How many -- so did you view, you know, partisan
4 breakdown by new Map 2 districts, commissioners'
5 districts before you chose Map 2?

6 A. I'm sure the commissioners did, but I don't
7 think I did.

8 Q. So you -- you didn't look at data related to
9 this before you voted on the map?

10 A. If I did, I don't remember it. And again,
11 that's a commissioner -- far more important to the
12 commissioner than it is to me.

13 Q. And when you say that Map 2 reflects the
14 partisan composition of Galveston County, you said that
15 makes sense to you, and why does that make sense to you?

16 A. I don't think that I said Map -- well, I guess
17 it does say Map 2. If you've got a 66 percent
18 Republican county, it's going to be very hard to draw a
19 map that doesn't have four Republican precinct
20 commissioners.

21 Q. So you believe that Map Proposal 2 has all four
22 Republican commissioner precincts, right?

23 A. Not at the moment but I suspect it will get
24 there eventually.

25 Q. What do you mean by "eventually"?

1 A. Well, if it's -- if it -- if it stays the way
2 it is, it would appear that would elect four Republican
3 commissioners, yes.

4 Q. So if Map -- just so I understand you
5 correctly. If the enacted map from 2021 stays in place,
6 it will elect all four Republican commissioners, right?

7 A. I believe so, yes.

8 Q. And so that, you know, 30 percent of Democrats,
9 they're not going to have a Democratic commissioner on
10 the commission anymore, right?

11 A. Well, they would be dispersed county-wide.
12 They would not be in any one location.

13 Q. So no?

14 A. No.

15 Q. Going back to your -- just thinking, going back
16 to your slogan, you know, "Keep Galveston County Red," I
17 mean, is that one of the reasons that you like this map,
18 it would help keep Galveston County red?

19 A. No. I already had that with three
20 commissioners.

21 Q. And you didn't think, you know, sealing the
22 deal would further that objective of keep Galveston
23 County red?

24 MR. RUSSO: Objection, vague and ambiguous.

25 THE WITNESS: It's not necessary. It's

1 A. Do I remember doing that specifically, no. But
2 my belief is I probably would have done that. That's
3 something I would have done.

4 Q. And where would you have done that? You
5 mentioned Facebook and we saw that Facebook post
6 earlier. Is there anywhere else?

7 A. We have a Twitter feed that I have never even
8 seen before. Facebook, Twitter is probably going to be
9 the primary possibilities.

10 Q. To your knowledge, was there any instruction to
11 the public about when they had to post a public comment
12 by for it to be read by the Commissioner's Court?

13 A. I don't remember. If it's not on here, I don't
14 remember.

15 Q. And any public comments that came in, what
16 happened to them after they were submitted?

17 A. They were collected, compiled, and sorted by
18 probably Jed at that time.

19 Q. Did you review the comments that were
20 submitted?

21 A. I reviewed a few. But they -- they were --
22 they were significant. There were a lot of them. And
23 then I got the final tally at the end.

24 Q. When you say "a few," can you estimate about
25 how many?

1 A. Less than a dozen.

2 Q. How did you choose which ones you were going to
3 review?

4 A. Honestly, it's when I sat down at that time,
5 whatever the next ones to come flowing in, that's how.

6 Q. And they were sent to your email directly or
7 somebody compiled them and sent them to you?

8 A. They would have been forwarded on.

9 Q. From -- by whom?

10 A. It may have been automatic. But if not, it
11 would have been either Jed or Zach.

12 Q. Do you know how many comments your office had
13 received by the time you had issued notice of the
14 November 12, 2021 special meeting?

15 A. I knew at the time. It seems like it was 500
16 or 515, in that ballpark.

17 Q. What about -- strike that.

18 You -- so you mentioned you received an
19 overall breakdown. And do you recall that you shared
20 that breakdown during the November 12, 2021 hearing?

21 A. I did.

22 Q. Do you remember the breakdown?

23 A. Exactly, no. As I recall, it was about two to
24 one favoring Map 2.

25 Q. And you -- do you remember saying in a hearing

1 that there were people that did not choose a map
2 preference; they just called you names? Do you remember
3 that?

4 A. Yes, that happens.

5 Q. What were you referring to -- and I'm so sorry
6 about that.

7 A. That's --

8 Q. What were you referring to when you said that?

9 A. There are people who don't really care which
10 map it is. They just want to take shots. And that's
11 what they do and that's fine. That's -- that's part of
12 the job.

13 Q. How did you -- were those within, like, the
14 dozen or so that you read?

15 A. Yeah.

16 Q. How did you know that they --

17 A. My staff would have told me. The ones that I
18 have read were actually somewhat relevant.

19 Q. Well, tell me about the ones you read.

20 A. I just remember them saying we like the coastal
21 county or we, you know, like Map 1 or you know -- but
22 they were generally, you know, related to the maps.

23 Q. Did any of them -- the ones that you actually
24 read, did they change any of your opinions on how you
25 would vote on the map?

1 A. No. That's unlikely. It's such a small sample
2 for such a large public policy issue.

3 Q. So did it ever occur to you that you'd want to
4 review more than just a dozen?

5 A. Which is why I got the composition or the total
6 at the end, yes.

7 Q. What -- what directions did you give your
8 staff, if any, when you asked for the composition?

9 A. I assume that I would have just said, you know,
10 I want to know the total because I think I read these
11 out at the Commissioner's Court meeting, how many people
12 responded, how many of them responded to a map
13 preference and then with a -- with a map on the ratio.

14 Q. Okay. I'd like to pull up one of these. And
15 this is Tab 80. And we are on Exhibit 34.

16 (Exhibit No. 34 was marked.)

17 Q. (BY MS. KLEIN) And this -- this is a public
18 comment and I see its submission date is November 12,
19 2021 at 9:24 in the morning. And the comment is from
20 Richard Moore and it says, (Reading:) Don't go out of
21 your way to break up the only majority minority precinct
22 in the country. History dictates that you will get
23 taken to court and end up wasting taxpayer money
24 defending a totally unnecessary action. You should
25 maintain this precinct as majority minority and make the

1 Q. (BY MS. KLEIN) So the top email here is -- it
2 looks -- you know, the from is a little convoluted here,
3 but it says Liechty.

4 A. Linda Liechty.

5 Q. And then two, Dianna Martinez and Veronica Van
6 Horn. This is your staff, right?

7 A. Correct.

8 Q. And it says, (Reading:) JH and Tyler talked
9 this morning. Need to schedule a special meeting on
10 Tuesday, November 9th. It's the only day Commissioner
11 Clark is available. Judge McCumber's courtroom is
12 available all day, but JH prefers we do it in the
13 morning. It's about the meeting -- it's about meeting
14 that 11/13 deadline.

15 JH, is that Judge Henry?

16 A. Yes, ma'am.

17 Q. And can you tell me about the context of this
18 email being sent?

19 A. Okay. I was off by a few days. So apparently,
20 it was on November 3rd they called and said you have to
21 have it to us by the 13th. So on the 3rd we would have
22 jumped on trying to get this wrapped up.

23 So apparently, we made an attempt to get it
24 done on November 9th, and for reasons I'm guessing, you
25 know, but I can't remember, we had to switch it to the

1 12th.

2 Q. I actually don't know. Do you remember why?

3 A. No, I don't. I don't know what day of the week
4 the 9th was. Was that a -- if the 12th was a Friday.
5 It would have been a Tuesday. It might be that we
6 couldn't get a forum. There's nothing that tells me we
7 couldn't do it on the 9th. We clearly wanted to and
8 tried to get the 9th.

9 Q. What was the date you were planning on having
10 the vote before you were informed that it had to be done
11 by the 13th?

12 A. I don't think we had a specific date in mind
13 yet. We were -- I mean, we still had it out for input.

14 Q. So in early November you didn't have a date for
15 legislative action that you wanted to get done before
16 mid to late November; is that correct?

17 A. By mid to late November, yes,

18 Q. You knew -- you know, going back to our
19 conversation at the beginning of the day, because that
20 regular session is usually the first Monday of the
21 month, you knew all the time that it would have to be a
22 special meeting, right, for this vote to happen?

23 A. Not necessarily. It could have happened during
24 a regular session. But the regular session would have
25 likely been the 1st, 2nd, 3rd, 4th, 5th, in that

1 THE WITNESS: The notice from the state
2 saying you must have your files to us by the 13th.

3 Q. (BY MS. KLEIN) What was your understanding of
4 the deadline before that?

5 A. I don't know if I had an understanding of a
6 deadline before that other than my preference that it be
7 before candidate filing period opening.

8 Q. And what was -- and your preference for
9 candidate filing, what preference -- what preferred date
10 was that?

11 MR. RUSSO: Objection, asked and answered.

12 THE WITNESS: We -- whatever the date the
13 opening of the filing period was. I don't recall what
14 it was.

15 Q. (BY MS. KLEIN) So had you planned ahead you
16 were going to have more than one meeting before that
17 preferred deadline?

18 A. No way of knowing. If we could have gotten it
19 done in one meeting, there's no reason to have
20 additional meetings necessarily.

21 Q. So come November -- come October 29th, when you
22 posted on that website the proposed maps, you had no
23 plans for when you were going to hold the hearing or how
24 many hearings there would be. Is that your testimony?

25 A. Say it again.

1 Q. When you posted the maps on October 29th on the
2 website, you had no understanding of when you would have
3 a hearing on it or whether there would be more than one
4 hearing. Is that your testimony?

5 A. We had no idea that the deadline would get
6 moved to the 13th. That is correct. So, therefore, we
7 did not feel like we were in a time-sensitive situation
8 at that time.

9 Q. Even though the candidate deadline filing
10 starts mid to late -- your understanding was it started
11 mid to late November?

12 A. Which is three weeks away.

13 Q. So at that time you had no plans for how many
14 meetings you've had or when they -- those meetings would
15 occur?

16 MR. RUSSO: Objection, asked and answered.

17 THE WITNESS: And again, if we schedule a
18 meeting in three days, that's all it takes.

19 Q. (BY MS. KLEIN) Okay. Do you remember how many
20 people commented during the November 12th hearing?

21 A. I do not.

22 Q. Do you remember the people who commented how
23 many opposed Map 2?

24 A. I do not.

25 Q. Did anything -- any of the comments you heard

1 THE WITNESS: Yes, because as I've
2 mentioned, commissioners have specific peculiar lines
3 they want in certain places and I'm county-wide so I
4 don't have those same concerns.

5 Q. (BY MS. RICHARDSON) You testified earlier that
6 you already knew that you were voting for Map 2 before
7 the November 12th meeting. Do I recall that testimony
8 correctly?

9 A. I would have probably said something along the
10 lines of since that got my coastal precinct that I had
11 requested, all other things being equal and being
12 compliant, that would be my preference, yes.

13 Q. Was there any consideration of Map 1 before
14 the -- did you personally consider Map 1 as a viable
15 option?

16 A. Sure, I looked at it. Absolutely.

17 Q. When did you decide that --

18 MR. RUSSO: Finish your question, counsel.

19 THE WITNESS: Sorry, counsel.

20 MS. RICHARDSON: That's fine. I basically
21 finished. He answered it.

22 Q. (BY MS. RICHARDSON) When did you decide that
23 you preferred Map 2 over Map 1?

24 A. Again, because of the coastal precinct and if I
25 had seen that everything else was in balance and the